

CAEPLA UPDATE

TO: CAEPLA DIRECTORS, ADVISORS, AND A FEW FRIENDS
FROM: Dave Core & Kevin Avram

July 03, 2010

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Attached is a copy of the third [CAEPLA radio ad](#), as well as the first [TV Ad](#) that is now being broadcast in Alberta. At the same time that these Landowner Legacy radio ads are airing in Sask., we are negotiating to have them run in several Alberta markets. (To hear each of the Landowner Legacy radio ads go to the [CAEPLA home page](#), and click the “radio ads” icon.)

In Saskatchewan, the purpose of the ads is to lay the groundwork for the [Surface Rights Advocacy Project](#). Essentially, before we talk about improved landowner legislation in Saskatchewan, we want to be sure that all who are involved----MLAs, regulators, and landowners----have a better sense of what is on the table and why. CAEPLA publications in the works for the fall and winter will be assisting in this regard.

The Landowner Legacy weekly talk radio program starts airing at the end of August/early September, so a summer of radio ads about property rights will help lay the foundation for what comes next. I think I mentioned in an earlier update that we signed a six-month contract at this point for the talk radio program. That will take us right through the winter pretty much.

In Saskatchewan, the thrust of our activities will be the Surface Rights Project and Regulatory Capture at the NEB. In Alberta and elsewhere, the thrust of our activities will be related exclusively to explaining what regulatory capture is, and then increasingly, shift to addressing the way regulatory capture has influenced the performance and practices of Ottawa’s National Energy Board (NEB).

REGULATORY CAPTURE AT THE NATIONAL ENERGY BOARD (NEB)

The Regulatory Capture TV ads will be airing all summer in Alberta, and then slowly expanding to additional markets—including Ottawa.

Policy Centre Mailing: #363-918 16th Ave. NW, Calgary, Alberta T2M 0K3 | PolicyCentre@caepla.org

Administration Mailing: #257-918 Albert Street, Regina, Sask. S4R 2P7 | Phone: 306.522.5000 | Admin@caepla.org

Ontario Region: Ontario@caepla.org | www.landownerassociation.ca

We also begin broadcasting “regulatory capture” radio ads in Alberta later this summer/early fall. That way we can be sure that large numbers of people will understand exactly what regulatory capture means when we start confronting the NEB in a more public and direct fashion.

One of this fall’s publications addresses regulatory capture in detail, including how a growing number of people are arguing that regulatory capture in the US may have contributed to the BP fiasco in the Gulf. In the US, it appears that the [MMS](#) (US federal regulator) has been as much of a yes-man for the industry as the NEB clearly is here in Canada. That being said, we are not aware that the MMS, at any time, ever insisted that it was in an actual “partnership” with the industry, as has been standard practice at Canada’s NEB.

[As you read our comments, keep in mind that CAEPLA is now, and always has been, a pro-development organization. Our objection with the NEB is not the development of the energy sector. We support development. Our objection is with the manner in which the NEB knowingly and quite deliberately tramples legitimate landowner interests, even as it maintains a secretive relationship with industry insiders and engages in inappropriate ex parte relationships.]

I wrote a rather lengthy piece recently that will soon be widely circulated. It’s called *Legless Turkeys*. The article addresses the issue of the NEB and its “partners.” A short quote is below. The quote is taken from a section of the article that follows on the heels of an old-fashioned and somewhat humorous story being told about legless turkeys:

EXCERPT: *There is a lot that could be said about the relationship between legless turkeys and Ottawa’s National Energy Board (NEB). If someone were to ask me what single aspect of the NEB is most like the turkey story, I would have to say, “The way it is assumed by so many in the industry—plus those who actually run the NEB—that the NEB’s role is to pretend it represents all stakeholders, even as it maintains and nurtures an openly incestuous relationship with the industry insiders that NEB boss Gaétan Caron for so many years openly referred to as the NEB’s partners.”*

I have been around the federal regulatory system long enough now to understand that the NEB doesn’t actually represent the public interest, or even appropriately consider the legitimate interests of all stakeholders. In reality, the NEB is a type of industry-backed, industry-funded shill.

The word shill means “a person or organization that publicizes or promotes something for reasons of self-interest, profit, friendship, or loyalty.”

No real regulator would even think of using the word “partnership” when referring to the companies or people it regulates. Think about it:

I have a friend who for years worked at the Transport Department, acting in the public interest as a regulator of the trucking industry. His responsibility was to ensure that big-rig trucks on the highway are mechanically safe and not overweight. My friend's name is John. The idea that John and his colleagues were in a partnership with various trucking businesses, or with the truck drivers who break transport laws and therefore get tickets, is ridiculous. Like all real regulators, they wouldn't dream of being in a partnership with those that they monitor, regulate, and where necessary, discipline.

That for so many years the NEB aggressively presented itself as a "partner" rather than a real regulator, says a lot about what it actually is, and how its higher-ups think.

WEEKLY CONFERENCE SESSIONS

Last Monday, the first of CAEPLA's weekly summer sessions related to the Landowner Legacy School (three hour conference calls) took place with [journalist Lorne Gunter](#) giving a really terrific presentation about property rights in Canada, and within the British Parliamentary tradition.

This Monday's session will be led by [Professor Thomas Merrill](#) from [Columbia Law School](#). He will be addressing property rights and the morality of property. Professor Merrill is one of the premier legal minds on such issues in the United States, and teaches at one of that nation's most prestigious law schools. You will note that among other things he served as clerk at the US Supreme Court, and for four years was Deputy Solicitor General for the US Department of Justice. In that capacity, he represented the United States before the U.S. Supreme Court.

Professor Merrill is the author of numerous published works, including [The Morality of Property](#). For those who participate in the Landowner Legacy School, I am sure you will find this Monday's session to be most enlightening. That's it for now from me.... As I was getting ready to send this update out to you all, Dave mentioned that he wanted to add a few paragraphs. They appear below.

Kind regards,
Kevin Avram

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Hi Everybody,

This past week Jim and I met with several groups of landowners throughout Alberta. We had meetings at Hannah, Vegreville, and Round Hill just to name a few of the places.

The week before, Kevin, Jim, and I were in northern Alberta meeting with landowners who live along the proposed route of the Enbridge Northern Gateway Pipeline. After the Northern Gateway meeting, Kevin spent several days in the Dawson Creek area meeting with landowners who have been negatively influenced by government regulators. Our objective is to get their stories recorded and in print so they can be widely distributed.

What some of these people have to say about the NEB will fry your ears. We will be publishing their stories in upcoming magazines, which will be more widely circulated than anything we have ever done thus far. So far, our largest circulation magazine was 155,000 copies. We believe we can push that to nearly 200,000, which will easily give us well over 500,000 readers per issue.

The publication of these stories will allow us to put human faces on the consequences of the NEB's actions and policies. That means instead of talking about "policy" with NEB bureaucrats, which CAEPLA has been trying to do for years, with little success, we will be shifting the debate to the human cost of who the NEB is and what it does—or more correctly, what the NEB doesn't do.

Kevin said the most heartbreaking session he had was with a lady who suffered a nervous breakdown due to the process, and who today, after ten years, has not recovered a single dime for an array of damages she and her family have suffered. After the NEB got involved, as far as the landowners are concerned the whole thing turned into a farce and a circus. (Kevin logged almost 5000 km these past few weeks, collecting stories on tape, taking pictures and meeting with landowners to get their stories.)

Many of you might know that in Alberta and northern BC, CAEPLA has been exploring options along major highways for erecting large signs that draw attention to regulatory capture at the NEB. Kevin left BC last Monday morning with a commitment to have a 40 foot by 10 foot sign erected along the highway that runs from Rycroft to Dawson Creek, as well as a commitment to have four more signs erected along the Alaska Highway, north of Dawson Creek.

We have eight more NEB/Regulatory Capture signs going up in Grande Prairie, Medicine Hat, and Edmonton. They are each large-scale reproductions of the NEB/Regulatory Capture Poster that appears on the CAEPLA homepage at our website. For the Calgary and Ottawa markets, we haven't finalized anything yet, but we are exploring the opportunity to have very large mobile signs attached to the bed of flat deck trucks. That way they are mobile and can be driven all over the city, including downtown during rush hour traffic.

If any of you have been to Las Vegas, Reno, or to some of the gambling centres in the US, you will know what we are talking about. If you have been there you have likely seen the huge signs that are mounted on flat deck trucks in these communities, and then driven throughout the city—especially in rush hour traffic. You simply cannot ignore them.

There is no way that elected officials and the mainstream media will be able to keep ignoring this. We believe the NOVA situation will inevitably be raised, as well as the end runs the NEB knowingly did on landowners over the control zone, crossing restrictions, and abandonment issues. It will be interesting to see what else comes to light when people who know what to look for, and how to look, start digging into the NEB's operations, including its affection for secrecy.

This coming week CAEPLA is submitting Access to Information requests that among other things are asking for a list of all expenses NEB directors have incurred over the past seven years—entertainment, travel, meals, flights, incidentals, etc.

A list of all gifts and invitations that have been received and accepted, plus a list of all *ex parte* meetings have been requested as well. An *ex parte* meeting is when a hearing is going to occur, and the judge or judges, meets privately with one of the parties without the other party knowing about it or being there. *Ex parte* is a crooked crooked way of doing business, and is the basis upon which many judges or quasi-judges have lost their jobs.

We all know that the NEB's NOVA transfer was a horrendously unfair situation for landowners, and one that trampled their legitimate interests. But if you look at what the NEB has done to landowners for years, it makes perfect sense that they did it again.

The NEB knowingly and quite deliberately screwed landowners on the control zone, on crossing restrictions, and on abandonment regulations and provisions. Being able to “do it” to landowners like that without there being any consequence, undoubtedly led these same bureaucrats to believe that if they could sock it to landowners on all these issues and get away with it, why shouldn't they be able to sock it to landowners on the NOVA jurisdictional transfer and get away with it.



The NEB now has a long-term pattern of dealings which clearly shows it won't hesitate to trample legitimate landowner interests. At the same time, it has also demonstrated that the only way it will ever stop abusing landowners is if the cost of doing so is driven so high it decides it doesn't want to pay it. CAEPLA's job then is to up the price.

I will be in Ottawa this next week to kick off yet one more project related to the NEB and the manner in which it operates. This project involves taking the many hundreds of blank pages (300) that the NEB sent us in response to an earlier Access to Information request, getting 450 complete copies made, and presenting one to every MP and Senator in Ottawa.

Doing this means in a first hand sort of way, sitting on the corner of hundreds of desks in the capitol will be a visual representation of exactly how these NEB bureaucrats interact with landowners. We have also had large numbers of hardback regulatory capture posters printed. We'll be giving them out in Ottawa as well. They're 22 inches by 17 inches, and with the hardbacks, easily hang on the wall to deliver a very pointed message.

One more thing we will endeavor to convey to elected officials, and be showing them through tangible actions, is that landowners as a whole are mad enough at who the NEB is, what it has done and is doing to them, that the opportunity for CAEPLA to raise the money needed to sustain an ongoing and increasingly aggressive relationship with the NEB has arrived.

I am not talking about being inappropriate in any way. As you know, CAEPLA is pro-development. I am referring to being appropriately confrontational, based on the circumstances and rules of engagement that the NEB itself is responsible for creating.

There's more I could say, especially about the Secrecy at the NEB Project, but I'll leave that for later.

We'll stay in touch,
Dave Core

PS: On a side note, we just looked at the CAEPLA website stats for June. We had between 40,000 and 50,000 hits last month. "Hits" is an Internet measurement that tells you how many files at your site have been accessed by web surfers on a monthly basis.